

AMENDED IN ASSEMBLY JUNE 2, 2016

AMENDED IN SENATE APRIL 4, 2016

**SENATE BILL**

**No. 936**

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**Introduced by Senator Hertzberg**

**(Coauthors: Senators Anderson, Cannella, Huff, and Wieckowski)**

**(Coauthors: Assembly Members Dodd, Cristina Garcia, Hadley, Irwin, Kim, and Rodriguez)**

February 2, 2016

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An act to amend and repeal Sections 63089.5, 63089.60, 63089.61, and 63089.62 of the Government Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

SB 936, as amended, Hertzberg. California Small Business Expansion Fund: corporate guarantees.

Existing law, the Small Business Financial Assistance Act of 2013, establishes the California Small Business Expansion Fund, a continuously appropriated fund that includes General Fund moneys. The act requires guarantees made by small business financial development corporations to be backed by funds on deposit in the corporation's trust fund account or by receivables due from funds loaned from the corporation's trust fund account to another fund in state government, as specified, and requires these loan guarantees to be secured by a reserve of at least 20%, until January 1, 2018, and 25% thereafter, as specified.

This bill would reduce the required reserve to 10% indefinitely and would make conforming changes with respect to related statements of legislative intent.

Existing law prohibits the amount of guarantee liability outstanding at any one time from exceeding 5 times the amount of funds on deposit

in the expansion fund plus any receivables due from funds loaned from the expansion fund to another fund in state government as, specified, until January 1, 2018, and 4 times thereafter.

This bill would increase that maximum amount to 10 times the amount of funds on deposit in the expansion fund plus any receivables due from funds loaned from the expansion fund to another fund in state government as, specified, would apply that increased amount indefinitely, and would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 63089.5 of the Government Code, as  
2 added by Section 4 of Chapter 537 of the Statutes of 2013, is  
3 amended to read:

4 63089.5. (a) There is hereby continued in existence in the State  
5 Treasury the California Small Business Expansion Fund. All or a  
6 portion of the funds in the expansion fund may be paid out, with  
7 the approval of the Department of Finance, to a financial institution  
8 or financial company that will establish a trust fund and act as  
9 trustee of the funds.

10 (b) The expansion fund and the trust fund shall be used for the  
11 following purposes:

12 (1) To pay defaulted loan guarantee or surety bond losses, or  
13 other financial product defaults or losses.

14 (2) To fund direct loans and other debt instruments.

15 (3) To pay administrative costs of corporations.

16 (4) To pay state support and administrative costs.

17 (5) To pay those costs necessary to protect a real property  
18 interest in a financial product default.

19 (c) The expansion fund and trust fund are created solely for the  
20 purpose of receiving state, federal, or local government moneys,  
21 and other public or private moneys to make loans, guarantees, and  
22 other financial products that the California Small Business Finance  
23 Center or a financial development corporation is authorized to  
24 provide. The program manager shall provide written notice to the  
25 Joint Legislative Budget Committee and to the Chief Clerk of the  
26 Assembly and the Secretary of the Senate who shall provide a copy  
27 of the notice to the relevant policy committees within 10 days of

1 any nonstate funds being deposited in the expansion fund. The  
2 notice shall include the source, purpose, timeliness, and other  
3 relevant information as determined by the bank board.

4 (d) (1) One or more accounts in the expansion fund and the  
5 trust fund may be created by the program manager for corporations  
6 participating in one or more programs authorized under this chapter  
7 and Section 8684.2. Each account is a legally separate account,  
8 and shall not be used to satisfy loan guarantees or other financial  
9 product obligations of another corporation except when the  
10 expansion fund or trust fund is shared by multiple corporations.

11 (2) The program manager may create one or more holding  
12 accounts in the expansion fund or the trust fund, or in both, to  
13 accommodate the temporary or permanent transfers of funds  
14 pursuant to Section 63089.3.

15 (e) The amount of guarantee liability outstanding at any one  
16 time shall not exceed 10 times the amount of funds on deposit in  
17 the expansion fund plus any receivables due from funds loaned  
18 from the expansion fund to another fund in state government as  
19 directed by the Department of Finance pursuant to a statute enacted  
20 by the Legislature, including each of the trust fund accounts within  
21 the trust fund.

22 SEC. 2. Section 63089.5 of the Government Code, as amended  
23 by Section 8 of Chapter 132 of the Statutes of 2014, is repealed.

24 SEC. 3. Section 63089.60 of the Government Code, as added  
25 by Section 4 of Chapter 537 of the Statutes of 2013, is amended  
26 to read:

27 63089.60. (a) The program manager shall recommend whether  
28 the expansion fund and trust fund accounts are to be leveraged,  
29 and if so, by how much. Upon the request of the corporation, the  
30 program manager's decision may be repealed or modified by the  
31 executive director or the bank board.

32 (b) The amount of guarantee liability outstanding at any one  
33 time shall not exceed 10 times the amount of funds on deposit in  
34 the expansion fund plus any receivables due from funds loaned  
35 from the expansion fund to another fund in state government as  
36 directed by the Department of Finance pursuant to a statute enacted  
37 by the Legislature, including each of the trust fund accounts within  
38 the trust fund.

39 SEC. 4. Section 63089.60 of the Government Code, as added  
40 by Section 4 of Chapter 537 of the Statutes of 2013, is repealed.

1 SEC. 5. Section 63089.61 of the Government Code, as added  
2 by Section 4 of Chapter 537 of the Statutes of 2013, is amended  
3 to read:

4 63089.61. (a) The corporate guarantee shall be backed by  
5 funds on deposit in the corporation's trust fund account, or by  
6 receivables due from funds loaned from the corporation's trust  
7 fund account to another fund in state government, as directed by  
8 the Department of Finance pursuant to a statute enacted by the  
9 Legislature.

10 (b) Loan guarantees shall be secured by a reserve of at least 10  
11 percent to be determined by the program manager unless a higher  
12 leverage ratio for an individual corporation has been approved  
13 pursuant to subdivision (b) of Section 63089.56.

14 (c) The expansion fund and trust fund accounts shall be used to  
15 guarantee obligations and other financial product obligations, to  
16 pay the administrative costs of the corporations, and for other uses  
17 pursuant to this chapter and Section 8684.2.

18 SEC. 6. Section 63089.61 of the Government Code, as added  
19 by Section 4 of Chapter 537 of the Statutes of 2013, is repealed.

20 SEC. 7. Section 63089.62 of the Government Code, as added  
21 by Section 4 of Chapter 537 of the Statutes of 2013, is amended  
22 to read:

23 63089.62. (a) It is the intent of the Legislature that the  
24 corporations make maximum use of their statutory authority to  
25 guarantee loans and surety bonds, and administer other financial  
26 products, including the authority to secure loans with a minimum  
27 loan loss reserve of only 10 percent, unless the program manager  
28 authorizes a higher leverage ratio for an individual corporation  
29 pursuant to subdivision (b) of Section 63089.56, so that the  
30 financing needs of small business may be met as fully as possible  
31 within the limits of corporations' trust fund account balance.

32 (b) Any corporation that serves an area declared to be in a state  
33 of emergency by the Governor or a disaster area by the President  
34 of the United States, the Administrator of the United States Small  
35 Business Administration, or the United States Secretary of  
36 Agriculture shall increase the portfolio of loan guarantees where  
37 the dollar amount of the loan is less than one hundred thousand  
38 dollars (\$100,000), so that at least 15 percent of the dollar value  
39 of loans guaranteed by the corporation is for those loans. The  
40 corporation shall comply with this requirement within one year of

the date the emergency or disaster is declared. Upon application of a corporation, the executive director may waive or modify the rule for the corporation if the corporation demonstrates that it made a good faith effort to comply and failed to locate lending institutions in the region that the corporation serves that are willing to make guaranteed loans in that amount.

~~SEC. 8.—Section 63089.62 of the Government Code, as added by Section 4 of Chapter 537 of the Statutes of 2013, is repealed.~~

*SEC. 8. Section 63089.62 of the Government Code, as added by Section 4 of Chapter 537 of the Statutes of 2013, is repealed.*

~~63089.62. (a) It is the intent of the Legislature that the corporations make maximum use of their statutory authority to guarantee loans and surety bonds, and administer other financial products, including the authority to secure loans with a minimum loan loss reserve of only 25 percent, unless the program manager authorizes a higher leverage ratio for an individual corporation pursuant to subdivision (b) of Section 63089.56, so that the financing needs of small business may be met as fully as possible within the limits of corporations' trust fund account balance.~~

~~(b) Any corporation that serves an area declared to be in a state of emergency by the Governor or a disaster area by the President of the United States, the Administrator of the United States Small Business Administration, or the United States Secretary of Agriculture shall increase the portfolio of loan guarantees where the dollar amount of the loan is less than one hundred thousand dollars (\$100,000), so that at least 15 percent of the dollar value of loans guaranteed by the corporation is for those loans. The corporation shall comply with this requirement within one year of the date the emergency or disaster is declared. Upon application of a corporation, the program manager may waive or modify the rule for the corporation if the corporation demonstrates that it made a good faith effort to comply and failed to locate lending institutions in the region that the corporation serves that are willing to make guaranteed loans in that amount.~~

~~(c) This section shall become operative on January 1, 2018.~~